IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6885 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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SHREE RAM METAL INDUSTRIES

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioners.

MR DN PATEL, Sr. Standing Counsel for Respondents.

CORAM : MR.JUSTICE M.S.SHAH

and

MR.JUSTICE K.A.PUJ

Date of decision: 12/08/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Rule. Mr. D.N. Patel, learned Senior Standing Counsel waives service of Rule for the respondents.

2. What is challenged in this petition under Article 226 of the Constitution is the order dated 25th February 2002 passed by the CEGAT, Mumbai in a stay application in Appeal No. E/71/2002-B.

3. Having regard to the amounts demanded as mentioned in Order-in-Original dated 20th December 2000 and the fact that the petitioner has already deposited Rs. 55,000/=, which fact is not disputed by the respondents, in the peculiar facts and circumstances of the case, it appears to the Court that interests of justice would be served if the CEGAT is directed to hear the petitioner's appeal on merits without requiring any predeposit of Rs. 90,000/= or any other amount as stipulated in the impugned order dated 25th February 2002. Since the CEGAT has dismissed the petitioner's appeal also on the ground of non-compliance with the order of predeposit, the said order dated 6th May 2002 of the CEGAT dismissing the petitioner's appeal, is also set aside and the CEGAT shall hear the appeal on merits.

It is directed accordingly.

4. It is clarified that the amount of Rs. 55,000/= deposited by the petitioner for the demand in question is to be retained by the respondent authorities till the appeal is decided.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

rmr. [M.S. Shah, J.]

[K.A. Puj, J.]